

THE HONORABLE THOMAS S. ZILLY

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

SQUAXIN ISLAND TRIBE, ISLAND  
ENTERPRISES, INC., SWINOMISH INDIAN  
TRIBAL COMMUNITY, and SWINOMISH  
DEVELOPMENT AUTHORITY,

Plaintiffs,

vs.

FRED STEPHENS, Director, Washington State  
Department of Licensing,

Defendant.

Case No.: C03-3951Z

JUDGMENT AND PERMANENT INJUNCTION

This action came on for hearing before the Court, Honorable Thomas S. Zilly, United States District Judge, presiding, and the issues having been heard and a decision having been rendered on November 22, 2005, docket no. 129, it is hereby Ordered, Adjudged, and Decreed:

- 1) The Court grants judgment in favor of Plaintiffs on Count I of Plaintiffs' Second Amended Complaint as to the State of Washington Motor Vehicle Excise Tax imposed by RCW 82.36, for the reasons stated in the Court's Order dated November 22, 2005, docket no. 129.

C03-3951Z

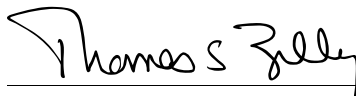
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- 1       2) The Court dismisses as moot, without prejudice, Counts II and III of Plaintiffs' Second Amended  
2       Complaint.
- 3       3) The legal incidence of the State of Washington's motor vehicle fuel tax, RCW chapter 82.36,  
4       which became effective January 1, 1999, rests upon the retailer of those fuels.
- 5       4) As a matter of federal law, the State of Washington's motor vehicle fuel taxes may not be  
6       applied to motor vehicle fuels, delivered to, received by, or sold by any retail fuel station that is  
7       owned by an Indian tribe, tribal enterprise, or tribal member and that is located within the tribe's  
8       Indian Country.
- 9       5) Defendant is permanently enjoined from imposing or collecting motor vehicle fuels taxes, or  
10      otherwise seeking to enforce RCW chapter 82.36 with respect to motor vehicle fuels, delivered  
11      to, received by, or sold by Plaintiffs' retail fuel stations within their respective Indian Country.
- 12      6) Within 30 days, Defendant shall notify in writing all licensees under RCW chapter 82.36 that (a)  
13      motor vehicle fuel taxes may not be imposed upon, collected from, or passed on to Plaintiffs'  
14      retail fuel stations, and (b) with respect to motor vehicle fuels delivered to or received by  
15      Plaintiffs' retail fuel stations where a licensee does not impose upon, collect from, or pass on to  
16      Plaintiffs' retail fuel stations any motor vehicle fuel taxes, a licensee may seek refunds pursuant  
17      to RCW § 82.36.273 for taxes previously paid on those fuels. Defendant's notification shall  
18      include a copy of this Judgment.
- 19      7) Upon the issuance of any license under RCW chapter 82.36, Defendant shall provide to the  
20      licensee the notice required by this Judgment.
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8) This Judgment is binding upon the Defendant, his successors, and their respective officers, agents, servants, employees, and attorneys, and upon those persons in active concert or participation with them who receive actual notice of this order by personal service or otherwise.

Dated this 4th day of January, 2006.



THE HONORABLE THOMAS ZILLY

Presented by:

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s/ CORY J. ALBRIGHT

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s/ by CORY J. ALBRIGHT per email authorization

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